

87-03

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9

In The Matter Of:

KOPPERS COMPANY, INC.,

OROVILLE, CALIFORNIA

RESPONDENT

Respondent

PROCEEDING UNDER SECTION 106(a)  
OF THE COMPREHENSIVE ENVIRONMENTAL  
RESPONSE, COMPENSATION AND LIABILITY  
ACT OF 1980 (42 U.S.C. §9606(a))

) ORDER

) 87-03

This Order is issued to Koppers Company, Inc. ("Respondent" or "Koppers") pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, by the authority delegated to the undersigned by the Administrator of the United States Environmental Protection Agency ("EPA") and further delegated to the Assistant Administrator for Solid

1 Waste and Emergency Response and the Regional Administrators.  
2 This authority has been redelegated to the Director, Toxics &  
3 Waste Management Division, EPA, Region 9. Notice of the  
4 issuance of this Order has been given to the State of California.

5 This Order directs the respondent to undertake actions  
6 to protect the public and the environment.

7  
8 FINDINGS OF FACT

9 Background

10 1. Koppers is a corporation organized under the laws of  
11 the State of Delaware and doing business in the State of  
12 California. Its headquarters is located in Pittsburgh,  
13 Pennsylvania.

14 2. Koppers operates a wood treating facility ("The  
15 Site") that covers an area of about 200 acres and is located on  
16 Baggett-Marysville Road in Oroville, California. The Site is  
17 located approximately one-half mile east of the Feather River.  
18 It is bounded on the south by Ophir Road, on the east by  
19 Baggett-Marysville Road, on the north by Georgia Pacific Way,  
20 and on the west by Louisiana-Pacific Corporation's property.

21 3. The Site is on the EPA's National Priorities List  
22 for investigation and remediation under the Federal Superfund  
23 program. On April 25, 1986 the Respondent and the EPA entered  
24 into an Administrative Order on Consent which stipulated  
25 Respondent's performance of a Remedial Investigation/  
26 Feasibility Study under EPA oversight.

27 4. The EPA has designated an On-Scene Coordinator  
28

1 ("OSC") for the facility, pursuant to 40 C.F.R. Part 300,  
2 published at 50 Fed. Reg. 47912 (November 20, 1985).

3 4. Koppers uses the Cellon process, among others,  
4 to treat wood. The Cellon treatment process utilizes Penta-  
5 chlorophenol, Isopropyl Ether, Butane and Diesel Oil under  
6 high temperature and pressure.

7 5. On April 6, 1987 the mixing unit for the Cellon treatment  
8 process exploded, resulting in the combustion of the chemicals  
9 used in the process. This explosion resulted in a fire which  
10 burned for approximately nine hours.

11 6. Pentachlorophenol is a toxic chemical which has a  
12 wide range of health effects, varying from skin problems to  
13 systemic damage to the liver, central nervous system,  
14 gastrointestinal tract and renal and cardiac systems.

15 7. Commercial-grade pentachlorophenol, such as that  
16 utilized at the Koppers facility, contains polychlorinated  
17 dibenzo-p-dioxins and dibenzofurans, some of which have been  
18 identified as carcinogens and as causing birth defects.

19 8. The uncontrolled combustion of pentachlorophenol  
20 has been found to lead to the additional formation of polychlorinated  
21 dibenzo-p-dioxins and dibenzofurans above and beyond the  
22 levels found in commercial-grade pentachlorophenol.

23 9. The explosion and fire on April 6, 1987 is believed to  
24 have released and deposited hazardous substances on tanks and  
25 other vessels and the surrounding area. EPA refers to this  
26 surrounding area as the "fire zone." This area is bounded by  
27 cylinder 4 on the east, the northern end of cylinder 6 on the  
28 north, 150 feet west of cylinder 6 on the west and 150 feet

1 south of cylinder 6 on the south. The OSC may increase or  
2 decrease the size of the "fire zone" based on his field  
3 judgement.

#### 4 DETERMINATIONS

5  
6 Based upon the foregoing Findings of Fact, the Acting  
7 Director, Toxics and Waste Management Division, EPA Region 9  
8 has made the following determinations:

9 1. The Respondent is a "person" as defined in Section  
10 101(21) of CERCLA, 42 U.S.C. §9601(21).

11 2. The site located on Baggett-Marysville Road in Oroville,  
12 California, is a "facility" as defined in Section 101(9) of  
13 CERCLA, 42 U.S.C. §9601(9).

14 3. The Respondent owned and operated the facility at the  
15 time of the explosion on April 6, 1987 and is a responsible  
16 party as defined in Section 107(a) of CERCLA, 42 U.S.C.  
17 §9607(a).

18 4. Chemicals involved in the explosion are "hazardous  
19 substances" as defined in Section 101(14) of CERCLA, 42  
20 U.S.C. §9601(14).

21 5. The explosion and combustion of chemicals in the wood  
22 treating process resulted in "releases" as defined in Section  
23 101(22) of CERCLA, 42 U.S.C. §9601(22).

24 6. The releases or threatened releases of hazardous  
25 substances at the facility may present an imminent and  
26 substantial endangerment to the public health or welfare or the  
27 environment.

28 7. In order to prevent or mitigate immediate and significant

1 risk of harm to the public health or welfare or the environment,  
2 it is necessary that immediate actions be taken to contain  
3 and prevent the release or threatened release of hazardous  
4 substances from the facility. Such actions shall be considered  
5 removal actions pursuant to the National Contingency Plan, 40  
6 C.F.R. Part 300, and are necessary to protect public health  
7 or welfare or the environment.

8  
9 ORDER

10 Based upon the foregoing Findings of Fact, and  
11 Determinations, the Respondent is hereby ordered and directed  
12 to implement the following measures:

13 1. The Respondent shall deny access by any persons not  
14 authorized by the OSC to the fire zone, as defined in paragraph  
15 9 in the Findings of Fact. Any persons entering this zone  
16 must be wearing personal protection equipment approved by a  
17 qualified industrial hygienist. No motorized vehicles may  
18 enter the fire zone without approval from the On-Scene-Coordinator.

19 2. Respondent shall immediately provide for a continuous  
20 (24 hour) security guard at the site. Access roads to the site shall  
21 be secured to prevent unauthorized persons from entering the site.

22 3. Any removal of materials (including but not limited to,  
23 any equipment, soil, water, or waste) from the fire zone, or  
24 in any way related to the fire, must be approved by the  
25 On-Scene-Coordinator or OSC representative. In addition, the  
26 Respondent shall immediately take measures to prevent the  
27 migration of all materials from the fire zone. These actions  
28 must be undertaken by a qualified cleanup contractor approved

1 by the OSC.

2 4. Detailed Process Plans for the operation of the  
3 Cellon Treatment Cylinders (Cylinders number 5 and 6) shall  
4 be submitted to EPA within three (3) working days of receipt  
5 of this Order for EPA approval.

6 5. Wood treating operations at the Cellon Treatment Units  
7 and areas in the fire zone (as defined in Paragraph 9 of the Findings  
8 of Fact) shall not be recommenced until EPA notifies the  
9 Respondent that these operations may resume.

10 6. Within one (1) working day of receipt of this Order, the  
11 Respondent shall submit to EPA an Incident Report. This report  
12 must include a description of the events leading up to and  
13 causing the explosion, the quantity of materials released by  
14 the explosion and fire, the temperature of the fire based on  
15 the condition of the steel member contorted by the fire and  
16 the condition of other equipment in proximity to the fire, and  
17 the estimated fate of the plume of smoke emitted by the fire  
18 for the duration of the fire.

19 7. Within five (5) working days of receipt of this  
20 Order, the Respondent shall submit a report with recommendations to  
21 prevent similar incidents in the future. The report should  
22 also include recommendations for a revised contingency plan  
23 to mitigate health and environmental problems should a similar  
24 incident occur again.

25 8. EPA will submit sampling results to Koppers at  
26 the earliest opportunity. Based on these results, the  
27 Respondent shall submit a plan for site assessment within  
28 three (3) calendar days to EPA. Upon EPA approval of this plan,

1 it shall be immediately implemented by the Respondent.

2 9. A plan for site mitigation measures shall be submitted  
3 within three (3) calendar days of EPA certification of completion  
4 of the site assessment. Upon EPA approval of this plan, it  
5 shall be immediately implemented by the Respondent.

6 10. The Respondent shall grant site access to employees  
7 and authorized representatives of EPA and the State of California  
8 to the facility for the purpose of verifying compliance with  
9 the terms of this Order.

10 11. The Respondents shall assist the OSC referred to in  
11 paragraph 5 of the Findings of Fact, or any OSC for the facility  
12 subsequently designated by the EPA, in the execution of his  
13 authorities. The OSC shall have the authority vested in  
14 the "On-Scene Coordinator" by 40 C.F.R. Part 300, published  
15 at 50 Fed. Reg. 47912 (November 20, 1985), including  
16 the authority to: (1) be present on-site at all times when  
17 response work is being undertaken pursuant to this Order,  
18 (2) observe, take photographs and make other report on the  
19 progress of the work as the OSC deems appropriate, and (3)  
20 review records, files and documents relevant to the Order.

21 Compliance With Applicable Laws

22 12. In carrying out the terms of this Order, the Respondents  
23 shall comply with all federal, state and local laws and  
24 regulations.

25 Government Liabilities

26 13. The United States Government shall not be liable for  
27 any injuries or damages to persons or property resulting from  
28 the acts or omissions of the Respondents, their employees,



1 agents or contractors in carrying out activities pursuant to  
2 this Order, nor shall the Federal Government be held as a  
3 party to any contract entered into by the Respondents or  
4 their agents in carrying out activities pursuant to this Order.

5 Endangerment During Implementation

6 14. In the event that the Director, Toxics and Waste  
7 Management Division, EPA, Region 9 determines that any  
8 activities (whether pursued in implementation of or in  
9 noncompliance with this Order) or circumstances are endangering  
10 public health or welfare or the environment, the Director may  
11 order the Respondents to stop further implementation of this  
12 Order for such period as needed to abate the endangerment.

13 Penalties for Noncompliance

14 15. Any Respondent who, without sufficient cause, willfully  
15 violates, or fails or refuses to comply with this Order, or any  
16 portion thereof, may be subject to civil penalties of not  
17 more than \$25,000 for each day in which a violation occurs or  
18 such failure to comply continues, pursuant to the provisions  
19 of Section 106(b) of CERCLA, 42 U.S.C. §9606(b). Further,  
20 if any Respondent fails without sufficient cause to properly  
21 provide the removal or remedial action ordered herein, such  
22 person may be liable to the United States for punitive damages  
23 in an amount at least equal to, and not more than three  
24 times, the amount of any costs incurred by the Government as  
25 a result of such failure to take proper action, pursuant to  
26 the provisions of Section 107(c)(3) of CERCLA, 42 U.S.C.  
27 §9607(c)(3).

28 The EPA may take over the removal action at any time it

1 the EPA determines the Respondent is not taking appropriate  
2 action to mitigate the site hazard. In the event that the  
3 EPA assumes responsibility for the removal action, the Respon-  
4 dents shall be liable for all costs incurred by the EPA to  
5 mitigate the site hazard. The EPA may order additional  
6 removal or remedial actions deemed necessary by the EPA to  
7 protect public health or welfare or the environment.

8 Opportunity to Confer

9 16. The Respondents may request a conference with the  
10 Director, Toxics and Waste Management Division, EPA Region 9  
11 or his staff to discuss the provisions of this Order. At any  
12 conference held pursuant to their request, the Respondents  
13 must appear in person or by counsel or other representatives  
14 for the purpose of presenting any objections, defenses, or  
15 contentions which they may have regarding this Order. If the  
16 Respondents desire such a conference, they must make such a  
17 request orally within 24 hours of receipt of this Order, to  
18 be immediately confirmed in a written request. The Respondents  
19 should make any such request to any of the contact persons  
20 listed below.

21 Parties Bound

22 17. This Order shall apply to and be binding upon the  
23 Respondents, their officers, directors, agents, employees,  
24 contractors, successors, and assigns.

25 Notice of Intent to Comply

26 18. Immediately upon receipt of this Order, the  
27 Respondents shall orally inform the EPA of their intent to  
28 comply with the terms of this Order. This shall be confirmed

1 in writing within one (1) calendar day of receipt of this Order.

2 Effective Date

3 19. Notwithstanding any conferences requested pursuant  
4 to the provisions of this Order, this Order is effective upon  
5 receipt, and all times for performance shall be calculated  
6 from that date.

7  
8 It is so ordered on this 10<sup>th</sup> day of April, 1987.

9 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

10  
11 By: Jeffrey Zelickson

12 Jeffrey Zelickson  
13 Acting Director, Toxics & Waste Management Division  
14 U.S. EPA, REGION 9

15  
16  
17 Contact Persons:

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